

**Assembly Bill 2092 (Reyes) Chapter 575**  
*Disabled Veterans' Exemption - Retroactive Exemptions*

*Effective January 1, 2001. Adds Section 890.3 to the Military and Veterans Code.*

**This bill adds Section 890.3 to the Military and Veterans Code, which with respect to property taxes, permits the disabled veterans' exemption to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA). The exemption, subject to the limitations on refunds, would be granted as of the effective date of the disability rating.**

*Sponsor: Assembly Member Sarah Reyes*

*Law Prior to Amendment:*

The disabled veterans' exemption is generally available in two amounts<sup>1</sup>:

- \$100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a one time filing basis, and
- \$150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption" which requires a first time filing and subsequent annual filings to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for that year.

For both levels of disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For

<sup>1</sup> In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the \$100,000 basic exemption or the \$150,000 low income exemption.

annual re-filings of the \$150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of \$100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption under prior law.

Exemption	Amount of Exemption	Filing Reqs.	Current Tax Year			Prior Tax Year Refunds Available
			Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	
Basic	\$100,000	One Time Only	\$1,000	\$800 (1000 x 80%)	\$0	No
Low Income	\$150,000	Annual Refiling	\$1,500	\$1,200 (1,500 x 80%)	\$0	No

The following table summarizes the filing provisions for the disabled veterans' exemption under the new law.

Exemption	Amount of Exemption	Filing Reqs.	Current Tax Year			Prior Tax Year Refunds Available
			Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	
Basic	\$100,000	One Time Only	\$1,000	\$1,000	\$1,000	Yes, up to four prior tax years @ \$1,000 per year
Low Income	\$150,000	Annual Refiling	\$1,500	\$1,500	\$1,500	Yes, up to four prior tax years @ \$1,500 per year.

*In General:*

Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness and 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or

disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table below, the amount of the exemption depends upon 1) type of injury and 2) household income.

Current law establishes, until January 1, 2001, the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption <sup>2</sup>
<ul style="list-style-type: none"> <li>• Blind</li> <li>• Lost Two or More Limbs</li> </ul>	\$40,000	\$60,000
<ul style="list-style-type: none"> <li>• Totally Disabled</li> <li>• Active Duty Death</li> </ul>	\$100,000	\$150,000

The following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

Summary of Late Filing Provisions For Various Exemptions					
Exemption	Amount of Exemption	Filing	Due Date	Late Filing	Retroactive for Prior Tax Years
Disabled Veterans' Basic	\$100,000	One Time	2/15	80%, if by 12/10	No
Disabled Veterans' Low Income	\$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	\$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	\$4,000	Annual	2/15	80%, if by 12/10	No
Welfare Church Cemetery Exhibition Veterans' Organizations Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%, sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%, if filed on or before January 1 of the next calendar year.*  85%, if filed after January 1 of the next calendar year.*  *But not more than \$250 is to be charged for those years that taxes can be canceled or refunded.	Yes  If taxes were <u>paid</u> ; <u>four</u> years of refunds.  If taxes were <u>not paid</u> ; taxes may be canceled for an <u>unlimited</u> number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

<sup>2</sup> For persons who have qualified for the exemption in or before 1983, the income limit is \$34,000; for persons who became qualified after 1983 the income limit is reduced to \$24,000.

*Background:*

In 1998, the homes of 15,563 persons received the disabled veterans' exemption. The 10 counties with the most homes receiving the exemption include: San Diego (2,813), Los Angeles (1,359), Sacramento (1,136), Riverside (888), Orange (848), Solano (769), San Bernardino (734), Monterey (669), Contra Costa (501), and Alameda (466).

*Comments:*

1. **Purpose.** To permit retroactive exemptions in the specific instance where a veteran will eventually receive a 100% disability rating with a back dated effective date.
2. **Key Amendments.** The June 29 amendments reflect technical cleanup changes that were suggested in the prior analysis. The May 3 amendments reflect changes requested by the consultants to the Assembly Revenue and Taxation Committee to directly connect the provisions of the Military and Veterans Code, which this bill adds, to the pertinent sections of Revenue and Taxation Code that provide the disabled veterans' exemption for property tax purposes.
3. **This Bill Permits Retroactive Exemptions for Prior Tax Years.** Under current law, the disabled veterans' exemption can not be granted for any year unless a claim is filed on or before December 10 of that tax year. For those persons awaiting a disability rating, the exemption is available on a prospective basis once the rating is received. This bill effectively permits the disabled veterans' exemption to be retroactively granted, as specified, for prior tax years. If taxes on the property were paid prior to receiving the disability rating, the number of prior tax years for which the exemption could be granted retroactively would be generally limited to four. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. Thus, in practice, the exemption may not always be granted to the effective date of the disability rating. There is no statute of limitation placed on the cancellation of unpaid taxes otherwise permitted by law. Consequently, if taxes were not paid in prior years, there would be no limit to the number of years that may be canceled<sup>3</sup>.
4. **In practice, it can take many years for a veteran to receive a disability rating from the USDVA, especially where the veteran has appealed their rating.** Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and they receive educational material on the benefits available to disabled veterans. For those aware of the exemption, but awaiting their disability rating, some counties have adopted an administrative practice where they accept the filing of a "protective claim" each

---

<sup>3</sup> In practice, action would commence to sell tax-defaulted property after five years of non-payment.

year. This administrative practice allows the county to grant the exemption once the disability rating is received, since technically the claim for each tax year was filed “timely”. But this remedy is only helpful for those persons who previously have consulted with their local county assessor. Other counties may not accept or suggest “protective” claims.

5. **Related Legislation.** SB 1362 (Poochigian) adds Section 276.1 to the Revenue and Taxation Code to similarly provide retroactive exemptions for disabled veterans who were awaiting their disability rating from the USDVA.